

This is a courtesy copy of this rule. All of the Department's rules are compiled in Title 7 of the New Jersey Administrative Code.

## APPENDIX A STANDARD ADMINISTRATIVE CONSENT ORDER

The standard Administrative Consent Order contains references to [Person], [amount], and other blank brackets [ ]. Upon the Department's issuance or entry of an Administrative Consent Order, the Department will replace these terms and blank spaces with the appropriate information for that specific oversight document. The matter bracketed [ ] is not intended for deletion, but rather is intended to be descriptive of the variable information that may be contained in the final document.

IN THE MATTER OF THE:

[Site name]:

ADMINISTRATIVE CONSENT

AND:

ORDER

[Name of Person]:

PROGRAM INTEREST  
NUMBER:

This Administrative Consent Order is issued pursuant to the authority vested in the Commissioner of the New Jersey Department of Environmental Protection (hereinafter "the Department" or "DEP") by N.J.S.A. 13:1D-1 through 19, the Solid Waste Management Act, N.J.S.A. 13:1E-1 through 91, the Spill Compensation and Control Act, N.J.S.A. 58:10-23.11 et seq., and the Water Pollution Control Act, N.J.S.A. 58:10A-1 et seq., and duly delegated to the Assistant Director, Division of Responsible Party Site Remediation pursuant to N.J.S.A. 13:1B-4.

### FINDINGS

1. The property that is the subject of this Settlement Agreement is located at [Address], and designated as Block [ ], Lot [ ] on the tax maps of the [Township, Borough, City] of [Name of the Township, Borough, City], [Name of County] County, New Jersey (hereinafter "Property"), and includes all other areas to which any hazardous substance discharged on the Property has migrated (collectively, "the Site").

2. [The full name and mailing address of each party executing the Administrative Consent Order.]

3. [The regulatory and enforcement history of the site.]

4. By entering this Administrative Consent Order, [Person] neither admits to any fact, fault or liability under any statute or regulation concerning the condition of the Site nor waives any rights or defenses with regard to the site except as specifically provided in this Administrative

This is a courtesy copy of this rule. All of the Department's rules are compiled in Title 7 of the New Jersey Administrative Code.

#### Consent Order.

5. The scope of the investigation and remediation required by this Administrative Consent Order will include all contaminants at the above referenced Site, and all contaminants which are emanating from or which have emanated from the Site.

6. [Additional findings to be added at the Department's discretion].

### ORDER

#### I. Remedial Investigation Requirements

{6.}7. Within [ ] calendar days after the effective date of this Administrative Consent Order as set forth in paragraph 70 below (hereinafter, "the effective date of the Administrative Consent Order"), or as otherwise approved in writing by the Department, [Person] agrees to submit to the Department a detailed Remedial Investigation Work Plan (hereinafter the "RI Work Plan") in accordance with N.J.A.C. 7:26E, including a schedule pursuant to N.J.A.C. 7:26E-4.2(b). [Person] agrees to include in the RI Work Plan a baseline ecological evaluation pursuant to N.J.A.C. 7:26E-3.11 and all other work required by N.J.A.C. 7:26E-3.1 et seq., that the Department has not already approved for the site.

{7.}8. Within [ ] calendar days after receipt of the Department's written comments on the RI Work Plan, or as otherwise approved in writing by the Department, [Person] agrees to modify the RI Work Plan to conform to the Department's comments and agrees to submit the modified RI Work Plan to the Department. The determination as to whether or not the modified RI Work Plan, as resubmitted, conforms to the Technical Requirements for Site Remediation, N.J.A.C. 7:26E, and the Department's written comments and is otherwise acceptable to the Department shall be made solely by the Department in writing. When the Department determines that the RI Work Plan conforms to the Technical Requirements for Site Remediation and the Department's comments, it shall send [Person] written final approval of the RI Work Plan.

{8.}9. Upon receipt of the Department's written final approval of the RI Work Plan, [Person] agrees to conduct the remedial investigation in accordance with the approved RI Work Plan and the schedule therein.

{9.}10. [Person] agrees to submit to the Department a Remedial Investigation Report (hereinafter "RI Report") in accordance with N.J.A.C. 7:26E and the RI Work Plan and the schedule therein.

{10.}11. If upon review of the RI Report the Department determines that additional remedial investigation is required, the Department shall notify [Person] of the additional work that is required. [Person] agrees to submit to the Department another RI Workplan and schedule for the additional work. Upon approval of the RI Workplan for the additional required work, [Person] agrees to conduct additional remedial investigation and submit another RI Report pursuant to the approved schedule.

This is a courtesy copy of this rule. All of the Department's rules are compiled in Title 7 of the New Jersey Administrative Code.

{11.} 12. Within [ ] calendar days after receipt of the Department's written comments on the RI Report, or longer as authorized by the Department, [Person] agrees to modify the RI Report to conform to the Department's comments and agrees to submit the modified RI Report to the Department. The determination as to whether or not the modified RI Report, as resubmitted, conforms to the Technical Requirements for Site Remediation, N.J.A.C. 7:26E, and the Department's written comments and is otherwise acceptable to the Department shall be made solely by the Department in writing. When the Department determines that the RI Report conforms to the Technical Requirements for Site Remediation and the Department's comments, it shall send [Person] written final approval of the RI Report.

## II. Remedial Action Requirements

{12.} 13. Within [ ] calendar days after receipt of the Department's written approval of the RI Report, [Person] agrees to submit to the Department a Remedial Action Work Plan in accordance with N.J.A.C. 7:26E.

{13.} 14. Within [ ] calendar days after receipt of the Department's written comments on the Remedial Action Work Plan, or as otherwise approved in writing by the Department, [Person] agrees to modify the Remedial Action Work Plan to conform to the Department's comments and agrees to submit the modified Remedial Action Work Plan to the Department. The determination as to whether or not the modified Remedial Action Work Plan, as resubmitted, conforms to the Technical Requirements for Site Remediation, N.J.A.C. 7:26E, and the Department's written comments and is otherwise acceptable to the Department shall be made solely by the Department in writing. When the Department determines that the RA Work Plan conforms to the Technical Requirements for Site Remediation and the Department's comments, it shall send [Person] written final approval of the RA Work Plan.

{14.} 15. Upon receipt of the Department's written final approval of the Remedial Action Work Plan, [Person] agrees to implement the approved Remedial Action Work Plan in accordance with the schedule therein.

{15.} 16. [Person] agrees to submit to the Department a Remedial Action Report (hereinafter "RA Report") in accordance with the Technical Requirements for Site Remediation, N.J.A.C. 7:26E, the RA Work Plan and the schedule therein.

{16.} 17. If upon review of the RA Report, the Department determines that additional remediation is required [Person] agrees to conduct additional remediation as required by the Department including submission of additional workplans and reports, and schedules as applicable.

{17.} 18. Within [ ] calendar days after receipt of the Department's written comments on the RA Report, or longer as authorized by the Department, [Person] agrees to modify the RA Report to conform to the Department's comments, and agrees to submit the modified RA Report to the Department. The determination as to whether or not the modified RA Report, as resubmitted, conforms to the Technical Requirements for Site Remediation, N.J.A.C. 7:26E and the Department's written comments, and is otherwise acceptable to the Department shall be made solely by the Department in writing. When the Department determines that the RA Report

This is a courtesy copy of this rule. All of the Department's rules are compiled in Title 7 of the New Jersey Administrative Code.

conforms to the Technical Requirements for Site Remediation and the Department's comments, it shall send [Person] written final approval of the RA Report.

### III. Additional Remedial Investigation and Remedial Action Requirements

{18.} 19. If at any time that this Administrative Consent Order is in effect the Department determines that the prevailing standards in N.J.A.C. 7:26E are not being achieved or that additional remediation is required to protect the public health and safety and the environment, [Person] agrees to conduct such additional remediation as the Department directs.

### IV. Progress Reports

{19.} 20. [Person] agrees to submit quarterly progress reports which detail the status of [Person's] compliance with this Administrative Consent Order to the Department in accordance with N.J.A.C. 7:26E-6.6(b). [Person] agrees to submit the first progress report on or before the last calendar day of the fourth calendar month following the effective date of this Administrative Consent Order. [Person] agrees to submit a progress report thereafter on or before the last calendar day of the month following the next three calendar months being reported. [Person] may request that the Department allow progress reports be submitted semi-annually or annually.

### V. Project Coordination

{20.} 21. [Person] agrees to submit to the Department all documents required by this Administrative Consent Order, including correspondence relating to force majeure issues pursuant to Section X. of this Administrative Consent Order, by delivery with an acknowledgement of receipt from the Department. The date that the Department executes the acknowledgement will be the date the Department uses to determine [Person's] compliance with the requirements of this Administrative Consent Order for purposes of assessing penalties and availing itself of any other applicable remedies.

{21.} 22. Within seven (7) calendar days after the effective date of this Administrative Consent Order, [Person] agrees to submit to the Department the name, title, address and telephone number of the individual who shall be [Person's] technical contact for the Department for all matters concerning this Administrative Consent Order. In the event the Department determines that a meeting concerning the remediation of the site is necessary, the Department will provide notification to [Person's] agent, identified in paragraph 49. below, of the date, time and place of such meeting. [Person] agrees to ensure that the agent is available for and participates in such meeting.

{22.} 23. Within seven (7) days after the effective date of this Administrative Consent Order the Department will identify the individual who will be the Department's contact for all matters concerning this Administrative Consent Order. Unless the Department otherwise directs in writing, [Person] agrees to submit all payments and [number of copies] copies of all documents required by this Administrative Consent Order to the Department's contact.

{23.} 24. [Person] agrees to notify both verbally and in writing, the Department's

This is a courtesy copy of this rule. All of the Department's rules are compiled in Title 7 of the New Jersey Administrative Code.

contact person identified pursuant to paragraph 23. above at least fourteen (14) calendar days prior to the initiation of any field activities at the site which are related to remediation, development or redevelopment.

~~{24.}~~25. The Department will consider a written request for an extension of time to perform any requirement in this Administrative Consent Order, provided that [Person] submits any extension request to the Department two weeks prior to any applicable deadline to which the extension request refers.

#### VI. Remediation Funding Source and Remediation Funding Source Surcharge

~~{25.}~~26. [Person] agrees to establish and maintain for the duration of this Administrative Consent Order a remediation funding source in an amount equal to the Department-approved estimate of the remediation costs related to compliance with this Administrative Consent Order, including all operation, maintenance and monitoring costs of all engineering and institutional controls, pursuant to N.J.A.C. 7:26E-8, used to remediate the Site, pursuant to N.J.A.C. 7:26C-7. [Person] agrees that the initial remediation funding source amount is \$ [    ].

~~{26.}~~27. [Person] agrees to pay an annual remediation funding source surcharge if required to do so pursuant to N.J.A.C. 7:26C-7.8.

#### VII. Project Cost Review

~~{27.}~~28. Beginning three hundred sixty-five (365) calendar days after the effective date of this Administrative Consent Order, and annually thereafter on the same calendar day, [Person] agrees to submit to the Department a detailed review of all remediation costs expended by [Person] to comply with this Administrative Consent Order, including:

- (a) A detailed summary of all monies spent to date pursuant to this Administrative Consent Order;
- (b) The detailed estimated remediation costs required to comply with this Administrative Consent Order, including all operation, maintenance and monitoring costs; and
- (c) The reason for any changes from the previously submitted cost review.

~~{28.}~~29. At any time after [Person] submits the first cost review pursuant to the preceding paragraph [Person] may request the Department's approval to reduce the amount of the remediation funding source to reflect the remaining remediation costs necessary to comply with obligations under this Administrative Consent Order. If the Department grants written approval to such a request, [Person] may amend the amount of the then existing remediation funding source consistent with that approval.

~~{29.}~~30. If the estimated costs of meeting [Person's] obligations in this Administrative Consent Order at any time increase to an amount greater than the remediation funding source, [Person] agrees to within thirty (30) calendar days after receipt of written notice of the

This is a courtesy copy of this rule. All of the Department's rules are compiled in Title 7 of the New Jersey Administrative Code.

Department's determination, increase the amount of the then existing remediation funding source or provide an additional remediation funding source such that the total amount equals the Department's approved estimated cost.

{30.}31. If [Person] remediates the site to a restricted use remediation standard and [Person] implements institutional and engineering controls, [Person] shall maintain the remediation funding source, pursuant to N.J.A.C. 7:26C-7, in an amount necessary to pay for the operation maintenance and monitoring of the engineering and institutional controls.

#### VIII. Oversight Cost Reimbursement

{31.}32. Within thirty (30) calendar days after receipt from the Department of a written summary of the Department's oversight costs, including all accrued interest incurred pursuant to paragraph 34., determined pursuant to N.J.A.C. 7:26C-9.3, [Person] agrees to submit to the Department a cashier's or certified check payable to the "Treasurer, State of New Jersey" and submitted with DEP Form 062A, for the full amount of the Department's oversight costs, for the period invoiced in the Department's summary.

{32.}33. [Person] agrees that its agreement here to pay the Department's oversight costs will continue after the Department's termination of this Administrative Consent Order as provided herein for those oversight costs that have accrued prior to that termination.

{33.}34. [Person] also agrees to pay interest on the unpaid balance of oversight costs, beginning at the end of the thirty (30) calendar day period established in the preceding paragraph, at the rate established by Rule 4:42 of the current edition of the Rules Governing the Courts of the State of New Jersey.

#### IX. Reservation of Rights

{34.}35. The Department reserves the right to unilaterally terminate this Administrative Consent Order in the event that the Department determines that [Person] has violated the terms of this Administrative Consent Order. Before the Department unilaterally terminates this Administrative Consent Order, the Department shall notify [Person] in writing of the obligation(s) which it has not performed, and [Person] shall have thirty (30) calendar days after receipt of such notice to perform such obligation(s).

{35.}36. Nothing in this Administrative Consent Order precludes the Department from seeking civil or civil administrative penalties or any other legal or equitable relief against [Person] for violations of this Administrative Consent Order. In any such action brought by the Department under this Administrative Consent Order for injunctive relief, civil, or civil administrative penalties, [Person] may raise, among other defenses, a defense that [Person] failed to comply with a decision of the Department, made pursuant to this Administrative Consent Order, on the basis that the Department's decision was arbitrary, capricious or unreasonable. If [Person] is successful in establishing such a defense based on the administrative record, [Person] shall not be liable for penalties for failure to comply with that particular requirement of the Administrative Consent Order. Although [Person] may raise such defenses in any action initiated by the Department for injunctive relief, [Person] hereby agrees not to otherwise seek review of

This is a courtesy copy of this rule. All of the Department's rules are compiled in Title 7 of the New Jersey Administrative Code.

any decision made or to be made by the Department pursuant to this Administrative Consent Order, except as provided in paragraph 48. of this Administrative Consent Order. Under no circumstances shall [Person] initiate any action or proceeding challenging any decision made or to be made by the Department pursuant to this Administrative Consent Order.

{36.}37. This Administrative Consent Order shall not be construed to affect or waive the claims of federal or State natural resources trustees against any person for damages or injury to, destruction of, or loss of natural resources, unless expressly provided herein, and then only to the extent expressly provided herein.

{37.}38. Except as otherwise stated in this Administrative Consent Order, nothing herein shall be construed as limiting any legal, equitable or administrative remedies which [Person] may have under any applicable law or regulation. In any enforcement action the Department initiates pursuant to this Administrative Consent Order, [Person] reserves any defenses which the Spill Compensation and Control Act, *Matter of Kimber Petroleum Corp.*, 110 N.J. 69 (1988) or their amendments, supplements and progeny allow.

{38.}39. Except as otherwise set forth herein, by the execution of this Administrative Consent Order the Department does not release [Person] from any liabilities or obligations [Person] may have pursuant to any other authority, nor does the Department waive any of its rights or remedies pursuant thereto.

#### X. Force Majeure

{39.}40. If any event specified in the following paragraph occurs which [Person] believes or should believe will or may cause delay in the compliance or cause non-compliance with any provision of this Administrative Consent Order, [Person] agrees to notify the Department in writing within seven (7) calendar days of the start of delay or knowledge of the anticipated delay, as appropriate, referencing this paragraph and describing the anticipated length of the delay, the precise cause or causes of the delay, any measure taken or to be taken to minimize the delay, and the time required to take any such measures to minimize the delay. [Person] agrees to take all necessary action to prevent or minimize any such delay.

{40.}41. The Department will extend in writing the time for compliance for a period no longer than the delay resulting from such circumstances as determined by the Department only if:

- (a) [Person] has complied with the notice requirements of the preceding paragraph;
- (b) Any delay or anticipated delay has been or will be caused by fire, flood, riot, strike or other circumstances beyond the control of [Person]; and
- (c) [Person] has taken all necessary action to prevent or minimize any such delay.

{41.}42. The burden of proving that any delay is caused by circumstances beyond the control of [Person] and the length of any such delay attributable to those circumstances shall rest with [Person].

This is a courtesy copy of this rule. All of the Department's rules are compiled in Title 7 of the New Jersey Administrative Code.

{42.}43. "Force Majeure" shall not include the following:

- (a) Delay in an interim requirement with respect to the attainment of subsequent requirement
- (b) Increases in the cost or expenses incurred by [Person] in fulfilling the requirements of this Administrative Consent Order;
- (c) Contractor's breach, unless [Person] demonstrates that such breach falls within the above paragraphs; and
- (d) Failure to obtain access required to implement this Administrative Consent Order, unless denied by a court of competent jurisdiction.

#### XI. Penalties

44. [OPTIONAL--[Person(s)] shall submit to the Department a certified check made payable to the "Treasurer, State of New Jersey" for \$[ ].00, no later than [Person(s)] execution and submittal to the Department of this Administrative Consent Order. The Department's acceptance of the penalty shall not be construed as a waiver of the Department's right to compel [Person(s)] to specifically perform their obligations under this Administrative Consent Order.]

{43}45. [Person] agrees to pay penalties for its violations of this Administrative Consent Order, or for its failure to implement and maintain institutional controls including by way of example, a deed notice or declaration of environmental restriction that are part of a remedial action implemented pursuant to the order, according to the amounts and conditions in N.J.A.C. 7:26C-10.

{44.}46. [Person] agrees that its payment of a penalty pursuant to N.J.A.C. 7:26C-10 does not alter [person's] responsibility to complete any requirement of this Administrative Consent Order.

{49.}47. [Do not include this paragraph if only one party other than the Department is signing the Administrative Consent Order.] [List each non-DEP party to this Administrative Consent Order] are jointly and severally liable for penalties for violations of this Administrative Consent Order.

#### XII. Dispute Resolution

{53.}48. In the event a conflict arises between [Person] and the Department, [Person] may institute the Department's dispute resolution process at N.J.A.C. 7:26C-1.4.

#### XIII. General Provisions

49. [Person] agrees that the person listed below is [Person's] agent for the purpose of service for all matters concerning this Administrative Consent Order. Unless and until [Person] provides the Department with the name, title address and telephone number of [Person's] new

This is a courtesy copy of this rule. All of the Department's rules are compiled in Title 7 of the New Jersey Administrative Code.

agent.

[Name, title, address and telephone number of [Person's] agent]

{54.} 50. In addition to the Department's statutory and regulatory rights to enter and inspect, [Person] agrees to allow the Department and its authorized representatives access to all areas of the Site [Person] has access to, at all times, for the purpose of monitoring [Person's] compliance with this Administrative Consent Order and/or to perform any remedial activities [Person] fails to perform as required by this Administrative Consent Order. [Person] agrees that its agreement here to provide the Department with access will continue after the Department's termination of this Administrative Consent Order pursuant to Paragraph 35, above.

{55.} 51. [Person] agrees to not construe any informal advice, guidance, suggestions, or comments by the Department, or by persons acting on behalf of the Department, as relieving [Person] of its obligation to obtain written approvals as required herein.

{56.} 52. [Person] agrees to provide a copy of this Administrative Consent Order to each contractor and subcontractor retained to perform the work required by this Administrative Consent Order and agrees to condition all contracts and subcontracts entered for the performance of such work upon compliance with the terms and conditions of this Administrative Consent Order. [Person] agrees to be responsible to the Department for ensuring that its contractors and subcontractors perform the work herein in accordance with this Administrative Consent Order.

{57.} 53. Nothing in this Administrative Consent Order relieves [Person] from complying with all other applicable laws and regulations. Compliance with the terms of this Administrative Consent Order shall not excuse [Person] from obtaining and complying with any applicable federal, state or local permits, statutes, regulations and/or orders while carrying out the obligations imposed by this Administrative Consent Order. This Administrative Consent Order shall not preclude the Department from requiring that [Person] obtain and comply with any permits, and/or orders issued by the Department under the authority of the Water Pollution Control Act, N.J.S.A. 58:10A-1 et seq., the Solid Waste Management Act, N.J.S.A. 13:1 E-1 et seq., and the Spill Compensation and Control Act, N.J.S.A. 58:10:23.11 et seq., for the matters covered herein. The terms and conditions of any such permit shall not be preempted by the terms and conditions of this Administrative Consent Order if the terms and conditions of any such permit are more stringent than the terms and conditions of this Administrative Consent Order. Should any of the measures to be taken by [Person] during the remediation of any ground water and surface water pollution result in a new or modified discharge as defined in the New Jersey Pollutant Discharge Elimination System ("NJPDDES") regulations, N.J.A.C. 7:14A-1 et seq., then [Person] agrees to obtain a NJPDDES permit or permit modification from the Department prior to commencement of the activity.

{58.} 54. All work plans, schedules, and other documents required by this Administrative Consent Order and approved in writing by the Department are incorporated herein and made a part hereof.

{59.} 55. Upon the receipt of a written request from the Department, [Person] agrees to submit to the Department all data and information, including technical records and contractual

This is a courtesy copy of this rule. All of the Department's rules are compiled in Title 7 of the New Jersey Administrative Code.

documents, concerning contamination at the site, including raw sampling and monitoring data, whether or not such data and information, including technical records and contractual documents, were developed pursuant to this Administrative Consent Order. [Person] reserves its right to assert a privilege regarding such documents, but agrees not to assert any confidentiality or privilege claim with respect to any data related to site conditions, sampling or monitoring.

{60.} 56. [Person] agrees to comply with this Administrative Consent Order, which shall be fully enforceable as an Order in the New Jersey Superior Court pursuant to the Department's statutory authority.

{61.} 57. No modification or waiver of this Administrative Consent Order shall be valid except by written amendment to this Administrative Consent Order duly executed by [Person] and the Department. Any amendment to this Administrative Consent Order shall be executed by the Department and [Person]. The Department reserves the right to require the resolution of any outstanding violations of the applicable regulations or this Administrative Consent Order prior to executing any such amendment.

{62.} 58. [Person] waives its rights to an administrative hearing concerning the entry of this Administrative Consent Order

{63.} 59. This Administrative Consent Order shall be governed and interpreted under the laws of the State of New Jersey.

{64.} 60. If any provision of this Administrative Consent Order or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Administrative Consent Order or the application of such provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby and each provision of this Administrative Consent Order shall be valid and enforced to the fullest extent permitted by law.

{65.} 61. This Administrative Consent Order represents the entire integrated agreement between the Department and [Person] concerning the site subject to this Administrative Consent Order and supersedes all prior negotiations, representations or agreements, either written or oral, unless otherwise specifically provided herein.

{66.} 62. Within thirty (30) calendar days after the effective date of this Administrative Consent Order, [Person] agrees to record a copy of this Administrative Consent Order with the County Clerk, [ ] County, State of New Jersey and agrees to provide the Department with written verification of compliance with this paragraph which shall include a copy of this Administrative Consent Order stamped "Filed" by the County Clerk.

{67.} 63. This Administrative Consent Order shall be binding, jointly and severally, on each party, its successors, assignees and any trustee in bankruptcy or receiver appointed pursuant to a proceeding in law or equity. No change in the ownership or corporate status of any party or of the facility or site shall alter party's responsibilities under this Administrative Consent Order.

{68.} 64. [Person's] document retention policy notwithstanding, [Person] agrees to preserve, during the pendency of this Administrative Consent Order and for a minimum of ten (10) years

This is a courtesy copy of this rule. All of the Department's rules are compiled in Title 7 of the New Jersey Administrative Code.

after its termination, all data and information, including technical records, potential evidentiary documentation and contractual documents, in its possession or in the possession of [Person's] divisions, employees, agents, accountants, contractors, or attorneys that relate in any way to the contamination at the site. After this ten year period, [Person] may make a written request to the Department to discard any such documents. Such a request shall be accompanied by a description of the documents involved, including the name of each document, date, name and title of the sender and receiver and a statement of contents. Upon receipt of written approval by the Department, [Person] may discard only those documents that the Department does not require to be preserved for a longer period. Upon receipt of a written request by the Department, [Person] agrees to submit to the Department all data and information, including technical records and contractual documents or copies of the same. [Person] reserves whatever rights it may have, if any, to assert any privilege regarding such data or information, however, [Person] agrees not to assert any privilege or confidentiality claims with respect to data related to site conditions, sampling, or monitoring.

{69.}65. [Person] agrees to provide to the Department written notice of the dissolution of its corporate or partnership identity, the liquidation of the majority of its assets, or the closure, termination or transfer of operations in accordance with the schedule set forth at N.J.A.C. 7:26B-3.2 prior to such action. Upon such notice, [Person] agrees to submit a cost review pursuant to this Administrative Consent Order to the Department. [Person] agrees to also provide written notice to the Department of a filing of a petition for bankruptcy no later than the first business day after such filing. These requirements shall be in addition to any other statutory requirements arising from the dissolution of corporate or partnership identity, the liquidation of the majority of assets, or the closure, termination or transfer of operations. Upon receipt of notice of dissolution of corporate identity, liquidation of assets or filing of a petition for bankruptcy, the Department may request and, within fourteen (14) days of the Department's written request, the [Person] agrees to obtain and submit to the Department additional financial assurance pursuant to this Administrative Consent Order.

{70.}66. If [Person] remediates the Site to a restricted use standard and [Person] implements institutional and engineering controls, this Administrative Consent Order shall remain in full force and effect including the requirements to maintain a remediation funding source, and to pay an annual 1 % surcharge of the total amount of the remediation funding source until the Department determines that the site is remediated to the applicable unrestricted use standard.

{71.}67. If [Person] remediates contaminated soil at the Site to the Department's unrestricted use soil standard and any other contaminated media to the applicable remediation standard, the requirements of this Administrative Consent Order shall be deemed satisfied upon the receipt by [Person] of written notice from the Department stating that [Person] has completed the remediation required by this Administrative Consent Order in accordance with N.J.A.C. 7:26E and has satisfied all financial obligations imposed by this Administrative Consent Order and therefore [Person] does not need to continue to maintain a remediation funding source nor pay the annual 1 % surcharge, and that no further action is necessary at the Site. The written notice shall also state that the Administrative Consent Order is thereby terminated. Such written notice shall not relieve [Person] from the obligation to conduct future investigation or remediation activities pursuant to Federal, State or local laws for matters not addressed by this Administrative Consent Order.

This is a courtesy copy of this rule. All of the Department's rules are compiled in Title 7 of the New Jersey Administrative Code.

{72.}68. Except as provided in paragraph 55 above, [Person] may assert a claim of confidentiality for any information submitted by [Person] pursuant to this Administrative Consent Order, by following the Department's procedures in N.J.A.C. 7:26B-7.

{73.}69. [Person] agrees to submit to the Department, two copies of the executed original Administrative Consent Order, each with the original signature of [Person] or its authorized representative, and documentary evidence, such as a corporate resolution or a certification by a corporate officer, that the signatory has the authority to bind [Person] to the terms of this Administrative Consent Order, and proof that the remediation funding source has been established pursuant to N.J.A.C. 7:26C-7.

{74.}70. This Administrative Consent Order shall be effective upon the execution of this Administrative Consent Order by the Department and [Person].

NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION

Date: \_\_\_\_\_ BY: \_\_\_\_\_

Signature

\_\_\_\_\_  
Print Full Name Signed Above

\_\_\_\_\_  
Title

[Print Name of Company executing Order]

Date \_\_\_\_\_ BY: \_\_\_\_\_

Signature

\_\_\_\_\_  
Print Full Name Signed Above

\_\_\_\_\_  
Title